

Appl. No.: 09/458,602
Amdt. dated May 6, 2008
Reply to Office Action of February 6, 2008

REMARKS

This response is submitted in reply to the outstanding Office Action dated February 6, 2008. Claims 1, 3, 4 and 6-15 currently stand rejected. Applicants respectfully traverse. Claims 16-18 have been added to further define patentable aspects of the invention. No new matter has been added by the amendment. Accordingly, claims 1, 3, 4 and 6-18 are now pending in the present application.

In light of the remarks presented below, Applicants respectfully request reconsideration and allowance of all now-pending claims of the present invention, namely claims 1, 3, 4 and 6-18.

Claim Rejections - 35 USC §103

Claims 1, 7 and 9-14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Zhang et al. (U.S. Patent No. 6,253,327, hereinafter, “Zhang”) in view of Bartoli et al. (U.S. Patent No. 6,047,268, hereinafter “Bartoli”) and further in view of Schneider et al. (U.S. Patent No. 6,408,336, hereinafter “Schneider”). Claims 3, 4, 6, 8 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Zhang in view of Bartoli and further in view of Schneider, and further in view of Lim et al. (U.S. Patent No. 6,434,619, hereinafter “Lim”).

Independent claims 1 and 9 at least recite, *inter alia*, determining if the user is entitled to access the destination network based upon both the user profile and the indication of the location comprising a port, circuit ID, VLAN ID or MAC address from which the request was received.

Zhang is directed to a single step network logon. The Office Action cites Zhang for allegedly disclosing determining if the user is entitled to access the destination network based upon the user profile at col. 7, lines 12-17. Bartoli is directed to allowing authentication transactions to be performed via use of “cookies” to permit a user to conduct follow-on transactions without further installation of special software on the user’s client terminal. The

Appl. No.: 09/458,602
Amdt. dated May 6, 2008
Reply to Office Action of February 6, 2008

Office Action admits that Zhang and Bartoli fail to teach or suggest determining if the user is entitled to access the destination network based upon an indication of the location comprising a port, circuit ID, VLAN ID or MAC address from which the request was received as recited in independent claims 1 and 9. Instead, the Office Action cites Schneider, at col. 3, lines 3-60, allegedly disclosing “an indication of the location comprising VLAN ID, in the form of an IP address, and a port number” and that the “IP address or processor ID is used to determine whether the user has access to resources[.]” Office Action of Feb. 6, 2008, page 4.

Schneider is directed to a scalable access filter used in a virtual private network to control access by users to information sources provided by servers within the network. The passage of Schneider cited in the Office Action is directed to modem access filters wherein access checking is determined at two levels, Internet packet (IP) level and application level. However, Schneider fails to provide any apparent reason for adding also a user profile upon which to base a determination regarding a user’s entitlement to access a destination network. Similarly, neither Zhang nor Bartoli provide any apparent reason as to why one of skill in the art might combine an indication of user location to the use of a user profile for determining whether a user is entitled to access a destination network.

Applicants acknowledge that the Supreme Court has rejected a rigid application of the former “teaching, suggestion or motivation” (TSM) test in the *KSR v. Teleflex* ruling (*KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, USPQ 2d 1385 (2007) (hereinafter referred to as “KSR”), the Court specifically stated that:

Often, it will be necessary . . . to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an **apparent reason** to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis **should be made explicit**.

(see *Id.* at 1396), (emphasis added)), Applicants respectfully submit that the Office Action fails to explicitly provide an apparent reason for modifying the cited reference, beyond

Appl. No.: 09/458,602
Amdt. dated May 6, 2008
Reply to Office Action of February 6, 2008

a vague assertion that such modification would be obvious. Moreover, the reasoning provided is completely unrelated to the purposes or uses of the claimed invention and therefore would not provide motivation or an apparent reason to one of skill in the art to make the proposed combination. In this regard, the Office Action states that it would have been obvious by one having ordinary skill in the art to combine the teachings of Zhang, Bartoli and Schneider “because mobile devices provide limited control over transmission and mobile devices are becoming more common”. However, this statement has nothing to do with indicating why one of skill in the art would combine two completely different criteria for granting access to a network to form a dual criteria requirement for granting such access. Moreover, since each reference (Zhang and Schneider) is apparently content with its own respective mechanism for granting access, and no other reference is cited to indicate any need to modify either reference to incorporate the teachings of the other, there would be no reason to modify either reference except through hindsight. In any case, regardless of the teachings of the cited references, the Office Action has not met its burden with respect to providing an explicit apparent reason for making the combination recited in the claimed invention. As such, the assertion of the final Office Action regarding motivation to combine the references is at best a broad conclusory statement which, standing alone, is not an explicit statement that provides an apparent reason for combining the cited references. Rather, the assertion of the Office Action is merely a vague assertion regarding issues that would be of no concern to one of skill in the art faced with the problem with which the inventors of the claimed invention were faced.

Accordingly, not only has the Office Action failed to properly provide an explicit apparent reason for combining the cited references to meet the claimed invention, but there would also be no reason to combine the cited references as provided in independent claims 1 and 9. Although not cited in connection with rejecting independent claims 1 and 9, Lim also fails to provide any apparent reason for combining the other references and does not itself cure the deficiencies of the references described above. Accordingly, independent claims 1 and 9 are patentable over the cited references, either alone or in combination. Claims 3, 4, 6-8 and 10-15 depend either directly or indirectly from a respective one of independent claims 1 and 9, and as

Appl. No.: 09/458,602
Amdt. dated May 6, 2008
Reply to Office Action of February 6, 2008

such, include all the recitations of their respective independent claims. The dependent claims 3, 4, 6-8 and 10-15 are therefore patentably distinct from Zhang, Bartoli, Schneider and Lim, individually or in combination, for at least the same reasons as given above for independent claims 1 and 9. Therefore, the rejections of independent claims 1 and 9, along with the claims respectively dependent therefrom, are traversed.

Accordingly, for at least the reasons stated above, Applicants respectfully submit that the rejections of claims 1, 3, 4 and 6-15 under 35 U.S.C. §103(a) are overcome.

Newly Added Claims

Applicants have added new claims 16-18 to more particularly define aspects of the present application. The new claims include no new matter and are fully supported by the specification and the drawings of the present application.

Accordingly, it is believed that the new claims are in condition for allowance.

Appl. No.: 09/458,602
Amdt. dated May 6, 2008
Reply to Office Action of February 6, 2008

CONCLUSION

In view of the foregoing, it is respectfully submitted that all of the claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Chad L. Thorson
Registration No. 55,675

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON May 6, 2008.

LEGAL01/13081893v1